



## **PLANNING COMMISSION SYNOPSIS**

**Wednesday, February 13, 2008**

***5:00 p.m. STUDY SESSION***

*Review & Comment: Planning Department Website*

***ROOM LOCATION T-332***

**6:30 p.m. Regular Meeting**

**Council Chambers**

First Floor, City Hall Wing

200 East Santa Clara Street  
San José, California

**Ash Kalra, Chair**

**Randi Kinman, Vice-Chair**

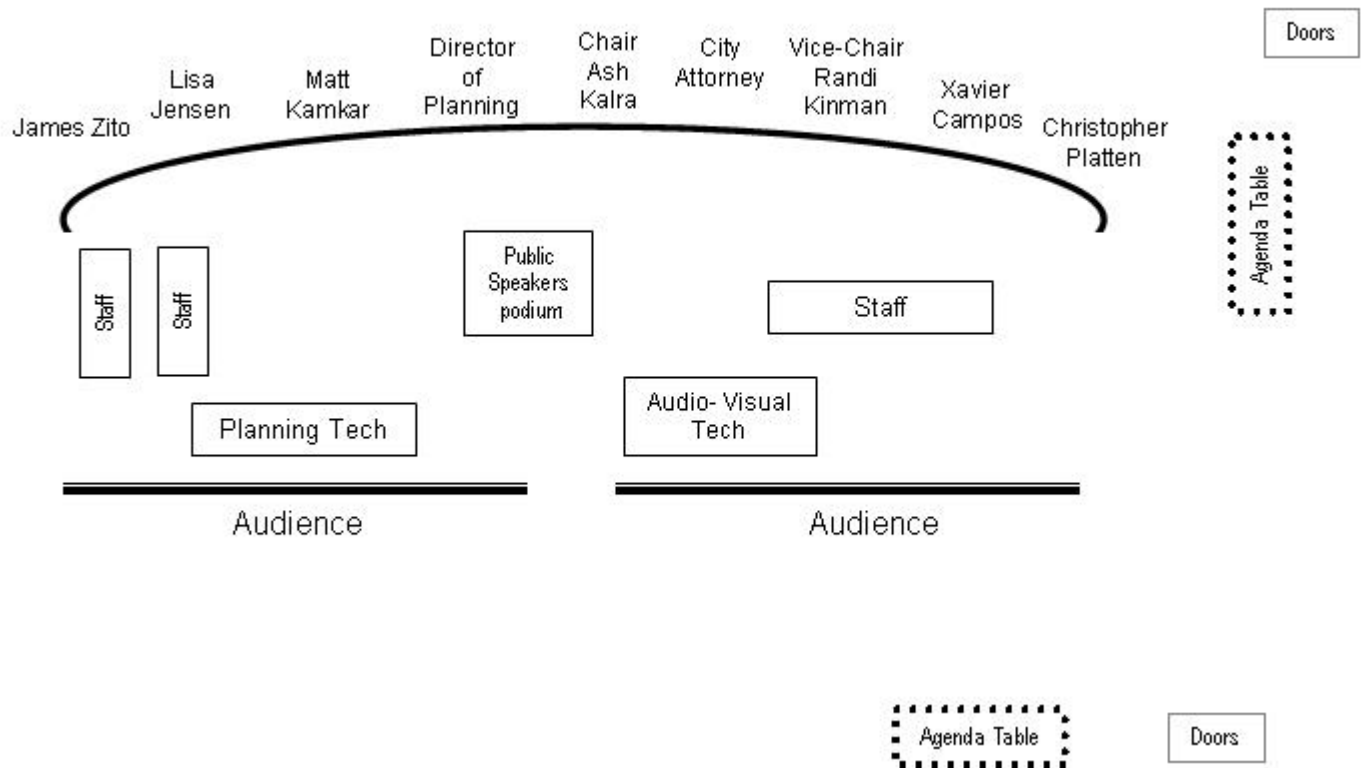
**Xavier Campos      Lisa Jensen**  
**Matt Kamkar      Christopher Platten**  
**Jim Zito**

**Joseph Horwedel, Director**  
**Planning, Building and Code Enforcement**

### **NOTE**

To listen to the audio recording of the planning Commission, please go to the Planning website at: [http://sanJosé.granicus.com/ViewPublisher.php?view\\_id=17](http://sanJosé.granicus.com/ViewPublisher.php?view_id=17)

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San José Planning Commission generally meets every 2<sup>nd</sup> and 4<sup>th</sup> Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at [www.sanjoseca.gov/planning/hearings/planning\\_com.asp](http://www.sanjoseca.gov/planning/hearings/planning_com.asp).

Audio for the Planning Commission hearings are recorded and broadcast live. To listen to live audio broadcast or to listen to past hearing recordings go to the Internet website: [http://sanjose.granicus.com/ViewPublisher.php?view\\_id=17#planningCommission](http://sanjose.granicus.com/ViewPublisher.php?view_id=17#planningCommission).

If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

**AGENDA**  
**ORDER OF BUSINESS**

**1. ROLL CALL**

*All were present except Commissioner Platten.*

**2. DEFERRALS**

- a. Consideration of Planning Commission Agenda management and length of public hearing concerns and determination on whether to proceed with remaining agenda items past 11:00 p.m., continue this hearing to a later date certain, or defer remaining items to the next regularly scheduled Planning Commission meeting date. To be heard by the Planning Commission no later than 11:00 p.m.
- b. **FINAL ENVIRONMENTAL IMPACT REPORT FOR PARK VIEW TOWERS.** (File Nos. **H05-029, HP05-002, & HP05-003**) to construct up to 208 dwelling units and 16,700 square feet of retail/commercial office space (including space in live/work units) in two high-rise tower structures, approximately 200 feet and 150 feet tall, respectively; demolish two structures, one of which is the Letcher's Garage structure, which is listed as a National Register Structure and as a Contributing Structure to the St. James Square National Register and City Landmark Districts; and rehabilitate approximately 6,000 square feet of commercial space in the existing First Church of Christ Scientist Building, which is listed as a National Register Site, as a Contributing Structure to the St. James Square National Register and City Landmark Districts, and as a Structure of Merit on the City's Historic Resources Inventory on an approx. 1.8 acre site, located on the block bounded by N. 1<sup>st</sup>, St. James, N. 2<sup>nd</sup>, and Devine Streets, in the Residential Support for the Core (25+ DU/AC) General Plan designation and DC Downtown Primary Commercial Zoning District (SCH # 2006032042). Circulated September 28, 2007 to November 13, 2007. Deferred from 12/10/2007. *PROJECT MANAGER L.BUTLER*

**DEFERRED TO 03-12-2008 (6-0-1; PLATTEN ABSENT)**

**3. CONSENT CALENDAR**

- a. **PD07-035**. Adoption of a Resolution to approve a Planned Development Permit to allow entertainment and drinking establishment uses at an existing restaurant/bar (Rosie McCann's Irish Pub Restaurant) specifically related to the hours of operation after midnight on a 1.40 gross acre site in the A(PD) Planned Development Zoning District at the northwest corner of Santana Row and Olin Avenue (355 Santana Row)(Federal Realty, Owner). Council District: 6. SNI: None. CEQA: Reuse of an EIR. Continued from 01/30/2008. *PROJECT MANAGER, S.MALLICK*

**ADOPTED RESOLUTION (6-0-1; PLATTEN ABSENT)**

- b. **CP07-074**. Conditional Use Permit request to allow an entertainment establishment (Karaoke) to an existing legal non-conforming drinking establishment (Red Stag Lounge) on a 0.19 gross acre site in the CP Pedestrian Commercial Zoning District, located on the north side of West San Carlos Street, approximately 70 feet westerly of Menker Avenue (1711 W San Carlos St)(Barry and Linda Furtado, Trustee, owner). Council District: 6. SNI: Burbank/DelMonte. CEQA: Exempt. Deferred from 01/16/2008 and 01/30/2008. *PROJECT MANAGER, S.MALLICK*

**APPROVED (6-0-1; PLATTEN ABSENT)**

- c. [CP07-013](#). Conditional Use Permit to allow a wireless communications monopole and associated ancillary equipment to continue to operate on a 0.02 gross acre site in the LI Light Industrial Zoning District, located adjacent to the railroad right-of-way approximately 200 feet northeast of Elm Street, midway between Hamline Street and Newhall Street (Frank Ciari Plumbing and Heating Inc, Owner; Crown Castle USA, Developer). Council District 6. SNI: None. CEQA: Exempt. *PROJECT MANAGER, S.SAHA*

**APPROVED (6-0-1; PLATTEN ABSENT)**

- d. [CP07-056](#). Conditional Use Permit request to demolish an existing 1,412 square foot building (Jack-in-the-Box) and to construct a new 2,500 square foot fast food restaurant building with drive-through use with 24 hour operation on a 0.57 gross acre site in the CG General Commercial Zoning District, located on the southerly side on Tully Road, approximately 200 ft east of Alvin Ave. (1632 Tully Road)(Seet Ding Shee Trustee & Et Al, Owner). Council District 7. SNI: West Evergreen. CEQA: Exempt. *PROJECT MANAGER, S.MALLICK*

**APPROVED (6-0-1; PLATTEN ABSENT)**

- e. [PD07-104 & ABC07-010](#). Planned Development Permit and Determination of Public Convenience or Necessity to allow off-sale of alcoholic beverages at a retail store in an existing hotel (Doubletree) located on a 11.5 gross acres site in the A(PD) Planned Development Zoning District, located on northwest corner of Gateway Place and Airport Parkway (2050 GATEWAY PL)(Doubletree Dtwc Corp, Owner). Council District 3. SNI: None. CEQA: Exempt. *PROJECT MANAGER, E.SCHREINER*

**APPROVED (6-0-1; PLATTEN ABSENT)**

**The following items are considered individually.**

#### **4. PUBLIC HEARINGS**

- a. [PDC07-057](#). Planned Development Rezoning from the IP - Industrial Park Zoning District to the A(PD) Planned Development Zoning District to allow up to 1,700 single-family and multi-family attached residences, 45,000 square feet of retail space, and a 5.1 acre public park on a 32.6 gross acre site, located on the northwest corner of North First Street and River Oaks Place (WTI Inc, Owner; Thompson Dorfman, Developer). Council District 4. SNI: None. CEQA: Addendum to North San José EIR. Continued from 01/30/2008. *PROJECT MANAGER, J.BATY*.

**APPROVED WITH COMMENT THAT COMMISSION DISAGREES WITH INTERPRETATION OF TOP OF BANK AS RELATES TO SERVICE ROAD (5-1-1; ZITO OPPOSED; PLATTEN ABSENT)**

*Staff gave a brief summary of prior meeting and status of projects in North San José, and task force efforts, and highlighted the proposed project conforms to Riparian Corridor Policy and North San José Area Development Policy. Applicant made a brief presentation on the project focusing on orientation of park, proximity to light rail, and retail.*

*In response to Commissioner Kamkar, applicant explained relationship of slope of levee to the project site boundary, and stated that the 100-foot riparian boundary is not on the project site.*

*One speaker indicated a concern about the definition of riparian corridor and suggested a discrepancy with Riparian Corridor Policy diagrams that show the top of levee as the top of bank. He noted, as a resident of North San José, that this project is a good project and doesn't have the problems some have.*

*Eric Schoennauer, the applicant's representative, explained level of public outreach, including mailed notices and on-line in the community meeting calendar. He noted that in many earlier meetings, issues regarding soccer field did not come up. He noted specific outreach to Parks Commissioners and neighborhood representatives and that a special meeting had occurred Sunday morning, and stated ongoing concern about process by which City designs new parks. He reiterated project is exemplary and should be approved.*

*Commissioner Kalra stated Commission understood it's a good project, but Commissioners had wanted a bit more information.*

*In response to Commissioner Jensen, the applicant stated he understood city expectation that LEED Silver Standard should be met. Applicant stated that the project design is not yet far enough along to articulate the specific measures that will be used, but indicated that the project intends to meet the City standards. In response to Commissioner Jensen's question about possible Gold status, applicant and Director explained that Gold status is much more difficult for residential and much easier for non-residential projects. Commissioner Jensen offered to share ideas of other projects and applicant noted Council is going to approve a green policy for new buildings.*

*Commissioner Kamkar stated he is comfortable with soccer field layout, had attended task force meeting last week, and asked for information on schools. Applicant stated that project representative had been at all task force meetings and had heard community dialogues. Applicant stated that it has been confirmed that project site not a preferred school site and project would have to contribute school fees including participation in any area-wide future funding mechanisms. In response to Commissioner Kamkar, applicant stated City and school districts are appropriate bodies to determine student generation rates, not the project proponent.*

*Staff explained use of student rates in both environmental assessment and in the school needs assessment as Districts don't want to under build or overbuild, and explained ongoing dialogue with Santa Clara School District, and that there is currently capacity for an additional 900 students in schools serving the North San José area. Staff stated that the North San José Neighborhoods Task Force and the School Districts have endorsed an Education Needs Report that outlines a strategy to address school needs in North San José, and that Santa Clara Unified has decided not to raise fees through the standard approach, but is considering a possible financing district to fund new school construction. Commissioner Kamkar stated he wanted to ensure fair contribution toward schools.*

*In response to Commissioner Kamkar, staff clarified 5.1 acre park and future soccer field use would be determined through a subsequent process after PD permit but likely would be for "pick-up" games. The applicant stated proposed soccer field was in the middle of the size range for regulation fields, and stated that City's strategy is to have league-oriented play take place at multi-field facilities, such as the one planned at Vista Montana and First, which would have lighting for night play as well; such facilities might not be appropriate at this location.*

*Commissioner Zito stated project has many good points, but expressed a concern about some policy issues.*

*The Commission closed the public hearing.*

*In response to Commissioners, staff explained that the character of riparian areas can vary considerably and this variation needs to be taken into account when determining the top of bank, riparian setback issues and design. Staff commented on the challenges in the manual working with collaborative for 14 other cities and stated San José's policy is more restrictive than collaborative document, which sets the minimum setback at 40 feet. Staff indicated background of discussion for definition of "top of bank" and types of channels and noted that the adjacent parking lot exists now and will be replaced with 5.1 acres of parkland.*

*Commissioner Zito expressed concern about Council's direction to continue to process without task force completing its work, consistency in application of riparian policies, and asked what would happen if the Taskforce sets a fee for school impacts, because how the fee would be assessed for projects that are already approved? Director commented school district has some issues with how to charge fees differently in San José and Santa Clara. Director and staff commented that ordinarily school impact fees are collected at the building permit stage which is some months away, but that Santa Clara School District has not yet been charging the maximum "default" impact fee. In response to Commissioner Zito, the Director commented that although there could be a "grandfathered" project that wouldn't pay full fees, the City Council has set policy to proceed.*

*Commissioner Zito commented that he had attended the most recent North San José Taskforce meeting and stated that he had feedback from Taskforce members at the meeting that they were concerned that some sites were being considered for several future uses, and there might not be enough land to meet all of the needs. Chair Kalra stated that the City Council sets policy but that he believed Council understood concerns of the Commission.*

*Commissioner Kinman expressed concern that while staff may have been directed to proceed with review of projects; the Council had not given formal Council direction to Commission to continue to process North San José projects. She stated concern that Planning Commission is doing the work of Parks Commission. Commissioner Jensen commented that a year ago, City Council resolved that City was consistent on usage of riparian policy, and stated that flood occurs over the maintenance road and that she is uncomfortable going forward. She thanked applicant for hiring multiple architects for visual interest in project.*

*Commissioner Jensen asked how Commission can move on with this project if Riparian Policy implementation unclear. Director stated that staff understands that the differences found in documents prepared by the Water District and the City on different terminology for top of bank relates to different concerns for flooding versus habitat protection and that the Commission can walk through both documents in a study session and invite Water District as well to attend.*

*Commissioner Kamkar asked for clarification on Riparian Policy and Chair Kalra stated that these are bigger issues not specifically relevant to this project and should be discussed at a future study session, and noted that as staff had commented, under either interpretation the project conforms to the Riparian Policy.*

*Commissioner Jensen moved approval, with a note that the Commission disagrees with location of top of bank as defined, although setback from riparian is met either way. Commissioner Zito expressed continuing concern that Task Force work isn't done and stated he would not support the motion to move project forward. Commissioner Kinman stated she would support the motion, but stated she agreed with Commissioner Zito's concern.*

*In response to Commissioner Kinman, Director stated that Parks Department staff design the parks through an established public process, that Parks staff doesn't develop parks until land is dedicated to the City dedicated and that Parks Commission doesn't have an official role in park design.*

- b. **CP07-097**. Conditional Use Permit to allow a public eating, drinking, and entertainment establishment on a 0.26 gross acre site in the DC Downtown Primary Commercial Zoning District, located on the southwest corner of South 1st Street and East San Carlos Street (319 South 1st Street) (Pacific Properties et al, Owner; Wg Fritz Construction, William Fritz, Developer). Council District: 3. SNI: None. CEQA: Use of Final Downtown Strategy 2000 Plan EIR. *PROJECT MANAGER, E.SAMONSKY*

**APPROVED (6-0-1; PLATTEN ABSENT)**

*Planning staff made a brief presentation of the proposed project. The applicant's representative then gave a brief overview of the proposed Café operation. There were no speakers from the public on this project. Commissioner Kinman asked for clarification about the proposed hours of operation. Staff clarified that the hours in the recommendation were 6:00 a.m. to midnight to allow flexibility for the operator when desired.*

- c. **PDC06-104**. Planned Development Rezoning from the A-Agriculture District to the A(PD) Planned Development District to allow up to three single-family detached residences on a 2.69 gross acres site, (consisting of approximately 0.63 acres of which are bounded between San Felipe Road and Rachaella Lane and approximately 2.06 acres of which are located north of Rachaella Lane land at the terminus of Gayley Place) (Superior Real Estate Development & Investment, Owner). Council District 8. SNI: None. CEQA: Exempt. *PROJECT MANAGER, R.MATHEW*

**RECOMMENDED APPROVAL (6-0-1; PLATTEN ABSENT)**

*Planning staff gave a brief presentation of the proposed project. Gerry DeYoung of Ruth and Going, representing the applicant, gave a brief overview of the project and indicated he concurred with the staff recommendation. An adjacent neighbor to the south of the proposed site spoke on the proposal and expressed her concern over the potential impacts of development on their privacy. Commissioner Kalra and Kamkar asked the neighbor her thoughts on orientation of the future home and the opportunities that screening landscaping offered. The neighbor indicated the importance of both in approving the final development on the lot and hoped they would be considered. Commissioner Campos indicated that those details would not be coming to the Commission but would be dealt with at the development permit stage. Commissioner Kinman asked for clarification about the development restrictions proposed for Lot 3. Commissioner Zito expressed a desire to see strict guidelines relative to landscaping along the perimeter.*

*Commissioner Campos made a motion to recommend approval with direction to take into consideration the adjacent neighbors when reviewing the design.*

## **5. PETITIONS AND COMMUNICATIONS**

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
  - 1) Responding to statements made or questions posed by members of the public; or
  - 2) Requesting staff to report back on a matter at a subsequent meeting; or
  - 3) Directing staff to place the item on a future agenda.

*Jean Dresden addressed the Commission on the topic of the Riparian Corridor Policy and indicated she was pleased to see the discussion continuing and a Commission Study Session happening in the future.*

## **6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES**

## **7. GOOD AND WELFARE**

- a. Report from City Council

*Report given.*

- b. Commissioners' report from Committees:

- 1) Norman Y. Mineta San José International Airport Noise Advisory Committee (Campos).

*No Report.*

- 2) Coyote Valley Specific Plan (Platten).

*Platten absent.*

- 3) Parks Funding Subcommittee (Zito).

*No report.*

- 4) Envision San José 2040 General Plan Update Process (Kamkar).

*No report.*

- c. Review of synopsis for 01/30/08.

*APPROVED WITH MINOR CORRECTIONS (6-0-1; PLATTEN ABSENT)*

- d. Consider Study Session dates and/or topics.

- 1) Confirm Schedule:

- February 13<sup>th</sup> – Planning Department Website Design
- February 27<sup>th</sup> – CEQA: How to Review an EIR
- March 12<sup>th</sup> – North San José Task Force Recommendations
- March 26<sup>th</sup> – Inclusionary Housing Study Process
- (NEW) April 9<sup>th</sup> – Riparian Corridor Policy



## **SCHEDULE CONFIRMED (6-0-1; PLATTEN ABSENT)**

*Commission Kamkar brought up his previous suggestion to recognize the company Google for their innovation, etc. Deputy City Attorney Gurza suggested that the Commission agendaize for a later meeting a discussion on the topic of Commission Commendations and the policy around it. Until now, the Commission has only recognized through a commendation Commissioners for their work on the Commission, so this would be a departure from that and it warrants a discussion by the whole Commission. Staff indicated it would be agendaized for a meeting in the future.*

## **8. ADJOURNMENT**